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PATENT
Attorney Docket No.: 019404-001400US

TOWNSEND and TOWNSEND and CREW LLP

By : /Dianna L. Smith/
 Dianna L. Smith

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Bennett Cookson Jr. et al.

Application No.: 10/748,442

Filed: December 29, 2003

For: Providing Alternatives Within
A Family Tree Systems And
Methods

Customer No.: 20350

Confirmation No.: 2385

Examiner: Angela M. Lie

Art Unit: 2163

APPELLANTS' REPLY BRIEF
UNDER 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted in response to the Examiner's Answer mailed September 26, 2008. The following remarks are intended to further focus the issues in this appeal.

Claims 1 and 11 stand rejected under 35 USC §102 as being anticipated by Tebbs (US Patent Publication No. 2005/0114364). The Appellant and the Examiner differ as to whether Tebbs teaches "records [that] indicate multiple alternatives for at least one person of the family tree" that have been subjected to processes "determine a likelihood that two or more of the records represent the at least one person." The Examiner identifies Fig. 44 of Tebbs as teaching a plurality of records. This, however, is contrary to Tebbs' description.

Tebbs depicts a family tree at Fig. 1 and describes it at ¶[0026]. Tebbs' family tree includes five individuals, each of which may be represented by a record, depicted in Fig. 2B and described at ¶[0030]. Tebbs even identifies item 250 depicted at Fig. 2B as "a genealogical data record" (see ¶[0030]), which depicts one of the individuals in the family tree. Tebbs is concerned with rating the quality of data elements making up the individual record (see ¶[0031]) and not determining the likelihood that records indicating multiple alternatives for at least one person in fact represent the person, as recited in claim 1. Nowhere does Tebbs teach records (see ref. no 250) indicating multiple alternatives for at least one person of the family tree (ref. no. 100). Hence, the Examiner's attempt to redefine Tebbs' teaching, contrary to Tebbs' description, to anticipate the claim is improper.

Further, the Examiner's contention that the rating process of Tebbs determines the "likelihood that [multiple] records represent the [same] person" is not proper. Tebbs rates the quality of data elements within an individual record with the intent of indicating "the certainty of the claim for the previous existence of the individual in light of the genealogical data elements" (see ¶[0041]). Rating data elements within an individual record to thereby assess the likelihood that the individual existed is not the same as determining the likelihood that multiple records represent the same person, as recited in claim 1. Hence, the Appellant maintains that the rejections of claims 1 and 11 are improper for at least the foregoing reasons.

The Appellant also maintains that claim 19 stands rejected improperly. Among other things, claim 19 calls for a "new alternatives symbol." Nowhere has the record identified a

“new alternatives symbol” associated with a requested family tree. Hence, the Appellant maintains that the rejection of claim 19 is improper, at least for this reason.

Respectfully submitted,

Date: November 26, 2008

/Irvin E. Branch/

Irvin E. Branch

Reg. No. 42,358

TOWNSEND and TOWNSEND and CREW LLP

Two Embarcadero Center, Eighth Floor

San Francisco, CA 94111-3834

Tel: 303-571-4000

Fax: 415-576-0300

IEB/dls

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